



INTERNATIONAL REGULATION OF NARCOTICS BETWEEN  
THE UNITED STATES AND MEXICO

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1976

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I. Introduction

Both the United States and Mexico are signatories to a number of multilateral and bilateral agreements and treaties relating directly to the limitation and suppression of narcotic drugs. In addition, there are other agreements indirectly affecting or relating to the regulation and control of narcotic drugs and the drug traffic between these two countries.

The present report gives a brief analysis of these international documents and of their interrelation and implementation.

II. Multilateral Agreements

Six major multilateral agreements on narcotic drugs are currently in force. The United States, with certain reservations, is a party to all six, Mexico to five of them. In this report, each agreement will be referred to by the year the written document was completed: 1912, 1931, 1946, 1948, 1953, and 1961. As both the United States and Mexico are parties to the 1961 Convention, which is considered to be a final unification of the previous five agreements among the signatory parties, it constitutes the governing law between these two countries. Both countries, however, must observe the provisions of the previous five agreements vis-à-vis individual states which signed them but did not sign the 1961 Convention.

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A brief examination of the first five agreements and a detailed analysis of the 1961 Convention follow.

A. The Five Pre-1961 Agreements

1. The Hague Convention of 1912.<sup>1/</sup> Formally known as the Convention Relating to the Suppression of the Abuse of Opium and Other Drugs, this Convention provides for international cooperation in the control of the opium trade.

The United States and Mexico were among those countries that signed the Convention at The Hague on January 23, 1912, but it was terminated between them when they both became parties to the Single Convention on Narcotic Drugs of March 30, 1961.<sup>2/</sup>

2. The Geneva Convention of 1931.<sup>3/</sup> The Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs was completed at Geneva on July 13, 1931, and both the United States and Mexico are parties. Basically, the aim of this Convention is to limit the world manufacture of drugs to medical and scientific needs. It includes provisions designed to regulate the quantities of drugs available within the territory of the respective states.

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<sup>1/</sup> 38 Stat. 1912; 8 L.N.T.S. 187.

<sup>2/</sup> 18 U.S.T. 1407; T.I.A.S. 6298, as amended T.I.A.S. See also infra note 9.

<sup>3/</sup> 48 Stat. 1543; 139 L.N.T.S. 301.

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The parties agree not to exceed in their manufacture and imports designated amounts computed from estimates of their narcotics requirements.

The United States has a reservation to the 1961 Convention which, among other things, permits it for the purpose of internal control to impose measures stricter than those imposed by the 1931 Convention. The United States also has the right to require the presentation of an import permit by the country of destination in order to obtain permission for the transit of narcotic drugs through its territory.

Article 18 of the Convention provides that all drugs seized in illicit traffic shall be destroyed, converted into non-narcotic substances, or appropriated for medical or scientific use. Article 23 requires the parties to communicate to each other, through the Secretary General of the League of Nations, the particulars of each case of illicit traffic discovered by them which may be of importance because of the quantities involved, the information revealed on sources of illegal drugs or the methods employed by persons involved in drug traffic.

3. The Lake Success Protocol of 1946 (also referred to as the Geneva Protocol of 1946). <sup>4/</sup> The formal title is the Protocol

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<sup>4/</sup> 61 Stat. 2230, 62 Stat. 1796; T.I.A.S. 1671, 1859.

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Amending the Agreements, Conventions, and Protocols on Narcotic Drugs Concluded at The Hague on 23 January 1912, at Geneva on 11 February 1925, and 19 February 1925, and 13 July 1931, at Bangkok on 27 November 1931, and at Geneva on 26 June 1936.

It was completed at Lake Success, New York, on December 11, 1946, and both the United States and Mexico were parties to the agreement. The basic sense of the Protocol was that it transferred to the United Nations the functions previously exercised by the League of Nations under the various narcotics treaties concluded prior to this agreement.

4. The Paris Protocol of 1948.<sup>5/</sup> This agreement is formally known as the Protocol Bringing Under International Control Drugs Outside the Scope of the Convention of 13 July 1931, for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, as Amended by the Protocol Signed at Lake Success on 11 December 1946.

Both the United States and Mexico were signatories to the Protocol completed at Paris on November 19, 1948; but since they later became parties to the Convention of March 30, 1961, that Convention now governs relations between these two countries.

The Paris Protocol dealt with the problem of controlling new or synthetic drugs. It authorized the World Health Organization

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<sup>5/</sup> 2 U.S.T. 1629; T.I.A.S. 2308; 44 U.N.T.S. 277.

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to place under full international control all such drugs considered to be addictive or convertible into addictive drugs which were not covered by the 1931 Convention.

5. The New York Protocol of 1953.<sup>6/</sup> The formal title is

the Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of, International and Wholesale Trade In, and Use of Opium.

Although the United States is a party to this Protocol, completed in New York on June 23, 1953, Mexico as of this date is not a signatory. The Protocol limits the use of and trade in opium to medical and scientific needs and attempts to limit overproduction by limiting the opium stocks of the signatory states.

B. The 1961 Convention

The Single Convention on Narcotic Drugs of 1961<sup>7/</sup> was completed at New York on March 30, 1961, and the United States, as well as more than half of the nations in the United Nations, have<sup>8/</sup> ratified it.

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<sup>6/</sup> 14 U.S.T. 10; T.I.A.S. 5273; 456 U.N.T.S. 3.

<sup>7/</sup> Supra note 2. A copy of the Convention is available from the Law Library upon request.

<sup>8/</sup> For a list of parties to the Convention, see Treaties in Force. A List of Treaties and Other International Agreements of the United States in Force on January 1, 1976 391-393 (1976).

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In its preamble the Convention states the desire of the parties to conclude a "generally acceptable international convention replacing existing treaties on narcotic drugs, limiting such drugs to medical and scientific use, and providing for continuous international cooperation and control for the achievement of such aims...." Article 44 explicitly states that this agreement terminates and replaces among its signatories the five agreements previously discussed.

Article 2 places a wide range of substances under the control of the Convention, and subsequent amendments have expanded the list. <sup>9/</sup> Article 2, Section 5(b), specifically provides:

9/ Consult the five additional amendments:

(1) Addition of substance dihydrocodeinone-6-carboxymethyloxime (codoxime) to Schedule I of the Single Convention on Narcotic Drugs, 1961. Notification dated December 7, 1967. 18 U.S.T. 3279; T.I.A.S. 6423.

(2) Addition of substances acetorphine and etorphine to Schedule IV of the Single Convention on Narcotic Drugs, 1961. Notification dated February 19, 1968. 19 U.S.T. 4668; T.I.A.S. 6458.

(3) Amendments to schedules of the Single Convention on Narcotic Drugs, 1961. Notification dated November 18, 1969. 20 U.S.T. 4064; T.I.A.S. 6795.

(4) Addition of substance propiram to Schedule II of the Single Convention on Narcotic Drugs. 1961. Notification dated November 17, 1971. 22 U.S.T. 1808; T.I.A.S. 7223.

(5) Addition of substance difenoxin to Schedule I and amendment of Schedule III of the Single Convention on Narcotic Drugs, 1961. Notification dated March 22, 1974. 25 U.S.T. 651; T.I.A.S. 7817. See also T.I.A.S. 7945.



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A Party shall, if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare, prohibit the production, manufacture, export and import of, trade in, possession or use of any such drug except for amounts which may be necessary for medical and scientific research only....

The parties under Article 4 agree to take necessary steps within their own territory to carry out the provisions; to cooperate with other states; and to limit the production, export, import, distribution, possession, and use of narcotic drugs to medical and scientific purposes.

The Convention in Article 9 provided for the creation outside the United Nations of an International Narcotics Control Board consisting of 11 members. Among its functions, the Board enforces the provisions of the Convention; secures and publishes relevant statistical data; requests information and explanations by governments; recommends to the signatories the placement of import and export embargoes on drugs to parties which violate the provisions of the Convention; and publishes the texts of the narcotics laws of the respective countries. <sup>10/</sup>

<sup>10/</sup> Contrast the function of this Board to that of the Commission on Narcotic Drugs of the Economic and Social Council of the United Nations, the latter consisting of 24 members who function primarily in a research and advisory capacity when not carrying out functions originally assigned to the League of Nations Advisory Committee on Traffic in Opium and other Dangerous Drugs, by virtue

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Limitations on the quantity of drugs that may be manufactured and imported are detailed in Article 21. Under this Article the parties are required to halt the export of drugs to countries violating those limitations. Article 22 prohibits the cultivation of certain plants, including cannabis, when necessary to protect the public health and welfare and to prevent the diversion of drugs into illicit traffic. Controls and limitations are also placed on the cultivation of opium, poppy straw, coca bush, and coca leaves.

Article 28 deals specifically with the control of cannabis. Production is permitted for industrial uses such as fiber and straw and for horticultural purposes. Parties to the Convention permitting the production of cannabis or cannabis resin must implement the same controls Article 23 establishes for opium and agree to adopt necessary measures to prevent the misuse of and illicit traffic in the leaves of the cannabis plant. 11/

The opium controls included in Article 23 also apply to those signatory countries permitting the cultivation of cannabis.

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of the fact that all the signatories of the five agreements previously discussed have not signed the 1961 Convention. The Economic and Social Council of the United Nations, however, has certain powers conferred upon it by the 1961 Convention. See particularly Arts. 3, 5, 7, 8, 9, and 14.

11/ Note that the word "permit" is not among the definitions included in Art. 1 of the Convention.

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Such countries are required to establish a national cannabis agency to designate special plots for the cultivation of the plant and to grant special licenses for growing it. The entire crop shall be delivered to the agency and purchased by it. In addition, the agency shall handle the import, export, wholesale trade in, and maintenance of cannabis stocks (other than those held by manufacturers for medical purposes).

Articles 29 and 30 require the control of and licenses for the manufacture, trade in, and distribution of narcotics covered by the Convention if those functions are not carried out by a state enterprise.

Article 31 specifies special measures relating to international trade. These require control by license of the import and export of narcotics, the disclosure of the quantities and parties involved, and as a condition for export an approved import certificate from the receiving country. The export of consignments of narcotics to post office boxes, banks, or the accounts of third parties is specifically prohibited. Exports to bonded warehouses are also prohibited unless explicitly permitted by the import certificate. The signatory countries agree not to allow drugs bound for other countries to pass through their territory unless an export certificate is produced. They also agree to take measures for preventing the diversion

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of drugs to destinations other than the country specified on the export certificate.

Article 35 deals with action against illicit traffic.

Under its provisions, the parties agree:

- (1) to make arrangements for coordinating preventive and repressive action against illicit traffic (including possibly the designation of an agency to perform this function);
- (2) to cooperate closely and assist each other in an expeditious manner; and
- (3) to transmit legal papers internationally for the purpose of facilitating prosecution in an appropriate manner.

Article 36 deals with penal provisions, and because of its import and specificity it is quoted below:

Art. 36. Penal Provisions. 1. Subject to its constitutional limitations, each Party shall adopt such measures as will ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provisions of this Convention, and any other action which in the opinion of such Party may be contrary to the provisions of this Convention, shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.

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2. Subject to the constitutional limitations of a Party, its legal system and domestic law,

(a) (i) Each of the offences enumerated in paragraph 1, if committed in different countries, shall be considered as a distinct offence;

(ii) Intentional participation in, conspiracy to commit and attempts to commit, any of such offences, and preparatory acts and financial operations in connexion with the offences referred to in this article, shall be punishable offences as provided in paragraph 1;

(iii) Foreign convictions for such offences shall be taken into account for the purpose of establishing recidivism; and

(iv) Serious offences heretofore referred to committed either by nationals or by foreigners shall be prosecuted by the Party in whose territory the offence was committed, or by the Party in whose territory the offender is found if extradition is not acceptable in conformity with the law of the Party to which application is made, and if such offender has not already been prosecuted and judgement given.

(b) It is desirable that the offences referred to in paragraph 1 and paragraph 2 (a) (ii) be included as extradition crimes in any extradition treaty which has been or may hereafter be concluded between any of the Parties, and, as between any of the Parties which do not make extradition conditional on the existence of a treaty or on reciprocity, be recognized as extradition crimes; provided that extradition shall be granted in conformity with the law of the Party to which application is made, and that the Party shall have the right to refuse to effect the arrest or grant the extradition in cases where the competent authorities consider that the offence is not sufficiently serious.

3. The provisions of this article shall be subject to the provisions of the criminal law of the Party concerned on the question of jurisdiction.

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4. Nothing contained in this article shall affect the principle that the offences to which it refers shall be defined, prosecuted and punished in conformity with the domestic law of a Party.

Article 42 makes the Convention of 1961 applicable to all the territories for which a party is responsible at the time of signature. Remaining Articles provide for special attention to the medical treatment and rehabilitation of drug addicts; the seizure and confiscation of drugs and equipment used or intended for the commission of offenses listed in Article 36; amendments and reservations; peaceful settlement of disputes over the interpretation or application of the Convention at the request of the affected parties; and a mandatory referral of unresolved disputes to the International Court of Justice.<sup>12/</sup>

### III. Bilateral Agreements on Narcotics

The United States and Mexico have concluded a number of bilateral agreements of treaty force relating to the exchange of information on narcotics traffic and to the supply by the United States of technical equipment and assistance to Mexico to help her

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<sup>12/</sup> For a comparison of the key provisions of these multilateral agreements, see Arthur D. Little, Inc., International Narcotics Control; A Source Book of Conventions, Protocols, and Multilateral Agreements. 1909-1971 (1972). For a detailed commentary on the Single Convention, see United Nations, Secretary-General, Commentary on the Single Convention on Narcotic Drugs, 1961 (1973).

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combat this traffic. <sup>13/</sup> Fifteen such agreements are currently in force between the two countries. At least two of them require special consideration; the general content of the other thirteen is evident from the wording of their respective titles.

The first, the Arrangement for the Direct Exchange of Certain Information Regarding the Traffic in Narcotic Drugs, <sup>14/</sup> was carried out by an exchange of notes at Mexico dated August 5 and October 2, 1930. Significantly, it requires the direct communication of information when feasible on (1) persons engaged in illicit traffic, including such items as photographs, criminal records, fingerprints, modus operandi, partners, etc., and (2) the suspected movement of drugs. It also provides for mutual cooperation in detective and investigative work.

The second is the Agreement Relating to the Provision by the United States of Communications Equipment to Combat Contraband and Especially the Illegal Flow of Narcotics Across the Border. <sup>15/</sup> It was effected by an exchange of notes at Mexico and Tlatelolco dated August 31, 1973. The Agreement is noteworthy because it

<sup>13/</sup> Note that the United States and Mexican law enforcement agencies are also members of Interpol and thus may also utilize that organization's resources in gathering and exchanging information on narcotics traffic and offenders operating within or between their respective borders.

<sup>14/</sup> Charles I. Bevans, comp., 9 Treaties and Other International Agreements of the United States of America 1776-1949 [hereafter cited as Bevans] 967 (1972).

<sup>15/</sup> T.I.A.S. 7709.

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establishes the basis for a working communications link between the Mexican and United States customs authorities. Under its terms, the United States agrees to provide communications equipment for use by the Mexican Customs Service, and Mexico agrees to provide whatever additional equipment is necessary to combat the illegal flow of narcotics across their mutual border. Furthermore, the customs agencies of both countries consent to exchange at mutually agreeable times written information on specific actions carried out with respect to the aims of the Agreement. This Agreement proved to be the first in a series of subsequent agreements by which the United States was to offer Mexico training and equipment to assist in their cooperative efforts to curb illegal traffic in narcotics.

The thirteen other bilateral cooperative agreements mentioned are:

Agreement concerning a grant to Mexico of reference books in the field of narcotic abuse. 16/

Agreement relating to the provision by the United States of technical assistance in an epidemiological study of drug abuse in Mexico. 17/

Agreement concerning the provision of four helicopters and related assistance by the United States to help Mexico in curbing traffic in illegal narcotics. 18/

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16/ T.I.A.S. 7694.

17/ T.I.A.S. 7742.

18/ T.I.A.S. 7694.



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Agreement providing additional helicopters and related assistance to Mexico in support of its efforts to curb production and traffic in illegal narcotics. 19/

Agreement relating to the provision of support by the United States for a multi-spectral aerial photographic system capable of detecting opium poppy cultivation, with annexes. 20/

Agreement providing additional helicopters and related assistance to Mexico in support of its efforts to curb illegal production and traffic in narcotics. 21/

Agreement relating to a training program for Mexican helicopter pilots and mechanics as part of U.S.-Mexican cooperative efforts to reduce traffic in illegal narcotics. 22/

Agreement relating to the provision of assistance to Mexico in narcotics enforcement training activities. 23/

Agreement relating to cooperative arrangements to support Mexican efforts to curb the illegal traffic in narcotics. 24/

Agreement concerning the provision by the United States of four mobile interdiction systems for use in curbing the illicit flow of narcotic substances through Mexico. 25/

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19/ T.I.A.S. 7907; as amended, T.I.A.S. 7983.

20/ T.I.A.S. 7863; as amended, T.I.A.S. 7956.

21/ T.I.A.S. 7955.

22/ T.I.A.S. 7982.

23/ T.I.A.S. 7984.

24/ T.I.A.S. 8108.

25/ T.I.A.S. 8041.

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Agreement relating to the provision of equipment and training by the United States to support U.S.-Mexican efforts to curb illegal narcotics.  
May 29, 1975. 26/

Agreement relating to the provision of equipment and training by the United States to support U.S.-Mexican efforts to curb illegal narcotics traffic.  
June 25, 1975. 27/

Agreement to indemnify and safeguard the United States Government, its personnel and contractors for liability arising out of aircraft operations training in support of the cooperative program to curb illegal narcotics traffic. 28/

IV. Other Agreements Affecting Narcotics Trade

A number of other agreements concluded between the United States and Mexico also affect international narcotics trade.

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26/ T.I.A.S. 8123.

27/ T.I.A.S. 8125.

28/ T.I.A.S. .

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Foremost is a series of extradition treaties and conventions between the two countries. <sup>29/</sup>

Under the terms of the Supplementary Extradition Convention signed at Mexico on June 25, 1902, bribery (with clear implications for illicit narcotics traffic and activity) is added to the list of crimes for which extradition may be granted. <sup>30/</sup> Furthermore, the Supplementary Extradition Convention signed at Washington on December 23, 1925, <sup>31/</sup> explicitly makes offenses against the laws for the suppression

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<sup>29/</sup> These conventions are:

- (1) Extradition Treaty, Mexico, February 22, 1899.  
31 Stat. 1818; 9 Bevans 900.
- (2) Supplementary Extradition Convention, Mexico,  
June 25, 1902. 9 Bevans 918.
- (3) Supplementary Extradition Convention, Washington,  
December 23, 1925. 44 Stat. 2409; 9 Bevans 955;  
54 L.N.T.S. 441.
- (4) Supplementary Extradition Convention, Mexico,  
August 16, 1939. 55 Stat. 1133; 9 Bevans 1045.

Note that Art. 36 of the Single Convention on Narcotic Drugs of 1961 provides for prosecution by the party in whose territory the offender is found if extradition is not acceptable under existing law.

<sup>30/</sup> Id., (2).

<sup>31/</sup> Id., (3). A copy of the Convention is available from the Law Library upon request.

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of traffic and use of narcotic drugs extraditable. In addition, smuggling and crimes relating to the illegal manufacture of or traffic in substances injurious to health constitute extraditable offenses. The Supplementary Extradition Convention signed at Mexico on August 16, 1939, adds accessories both before and after the fact to the above offenses as extraditable persons. <sup>32/</sup>

One other agreement that may indirectly tend to affect the narcotics trade between the United States and Mexico is the Agreement on Documentation for Nonimmigrants Traveling Between the United States and Mexico. It resulted from an exchange of notes at Mexico on October 28 and November 10 and 12, 1953. <sup>33/</sup> Although nonimmigrant visas are generally required for admission into the United States, there are several notable exceptions. Article 1 waives passport and visa requirements on the basis of reciprocity in the cases of military or civilian officials or employees of the Mexican National Government or of a Mexican state or municipal government, as well as members of their families, who apply for admission into the United States from Mexico for personal or official business or for pleasure, or who are

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<sup>32/</sup> Id., (4). Note that the whole question of extradition might, at least in theory, raise constitutional problems in a United States court should it attempt to try an offender who is first tried in a Mexican court and then extradited to the United States on a charge that might in fact constitute the same offense.

<sup>33/</sup> 5 U.S.T. 174; T.I.A.S. 2912.

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in immediate and continuous transit. Article 12 provides special privileges to Mexican citizens who live near the border and seek to cross it periodically. They will be issued a nonresident alien's identification card for crossing the border, and these may be used for repeated applications for admission to the United States.

V. Summary

The Single Convention on Narcotic Drugs of 1961 is the major existing regulation under international law on narcotic drugs between the United States and Mexico. This Convention deals specifically with the control of cannabis, as well as other substances, and provides an extensive list of penal provisions. It is an attempt to unify earlier multilateral agreements on the control of narcotics. As both the United States and Mexico are parties to the Convention, it supersedes previously concluded multilateral conventions on narcotics in terms of the obligations each has toward the other under international law.

In addition, a number of bilateral agreements between the United States and Mexico either directly or indirectly deal with or affect narcotics traffic across their mutual border. These agreements deal with the mutual exchange of information on narcotics trade; the supply by the United States to Mexico of equipment and training

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designed to combat contraband trade between the two countries;  
extradition for narcotic and related offenses; and with general  
cooperative efforts to curb alleged drug traffic, including a specific  
agreement specifying the procedure for granting visas to nonimmigrant  
Mexican visitors to the United States.

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May 1976

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